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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,342	07/30/2003	Alan R. Pfaff JR.	11009-22	9300
30565	7590	08/12/2005	EXAMINER	
WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY LLP BANK ONE CENTER/TOWER 111 MONUMENT CIRCLE, SUITE 3700 INDIANAPOLIS, IN 46204-5137			NGUYEN, PHONG H	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 08/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/630,342	PFAFF, ALAN R.	
	Examiner	Art Unit	
	Phong H. Nguyen	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 06 June 2005.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 20-43 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 20-27 and 41 is/are allowed.

6) Claim(s) 28-33 and 35-39 is/are rejected.

7) Claim(s) 34,40,42 and 43 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/19/05

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_

## **DETAILED ACTION**

1. Upon reviewing Applicant's Remarks filed on 06/06/2005, drawing objections, 35 USC 112 rejections and double patenting rejections are withdrawn.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

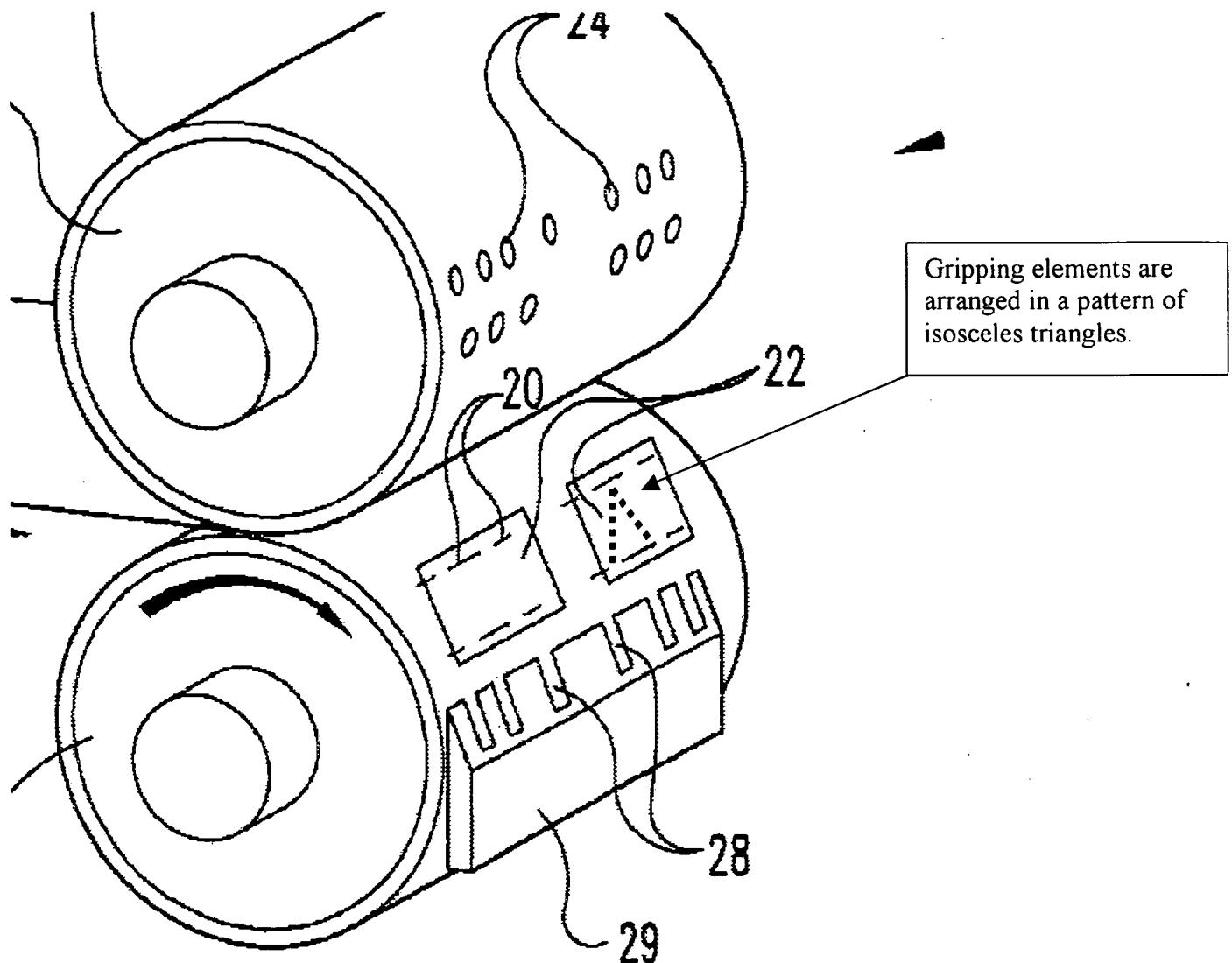
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 35-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art, hereinafter, AAPA.

Regarding claims 35 and 36, AAPA teaches a rotary cutting apparatus comprising a pair of cylinders, a rotary die mounted on one of the cylinders, a plurality of gripping elements and a stripping knife. See Figs. 1-5.

It is to be noted that the phrase "to partially pierce through the thickness of said scrap portions" does not exclude fully piercing.

Regarding claim 38, the gripping elements are arranged in a pattern of isosceles triangles. See attached Fig. 1.



Regarding 37, using the method of electrical discharge to manufacture gripping elements is well known in that art as taught by AAPA. See page 3 of the Specification.

*Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 28-34 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA in view of Smithwick et al. (5,881,620), hereinafter Smithwick.

Regarding claims 28 and 29, AAPA teaches a rotary die cutting apparatus substantially as claimed comprising:

a pair of cylinders (17, 18) in peripheral contact,  
a rotary die (11, 12) mounted to one of the cylinders, the rotary die having cutting elements thereon adapted to generate blanks and scrap portions from the moving web of material;

means 20 for gripping scrap portions, the gripping means extending from the rotary die, the gripping means registering with at least some of the scrap portions as the die rotates; and

a stripping knife 29 having an edge for contacting the scrap portions as the scrap portions are stripped away from the gripping means.

See Figs. 1-5 and page 7, line 1 to page 8, line 10.

AAPA does not teach the gripping means being sized and positioned so as not to piece completely through the scrap portion. Smithwick teaches gripping means 200 being sized and positioned so as not to piece completely through the scrap portion. See Figs. 1-10. Therefore, it would have been obvious to one having ordinary skill in the art to substitute the gripping means of Smithwick for the one of AAPA as an alternative means for gripping the scrap portions.

Regarding claims 31 and 32, the gripping means 200 are at three points of an isosceles triangle. See Figs. 5 and 11 in Smithwick.

Regarding claim 33, the modified apparatus of AAPA is capable of being using for a web material having a thickness of about 0.01 inches and the projections having a height of about 0.015 inches.

Regarding claims 34, Smithwick teaches varying the number of the gripping elements 200 to accommodate the pressure due to an upper die and a lower die. See Figs. 5 and 11.

Regarding claim 30, AAPA teaches methods of fabricating gripping elements such as masking or etching. See page 4 in the Specification.

6. Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA.

AAPA teaches the invention substantially as claimed except for the height of the gripping elements. However, to manufacture gripping elements having an appropriate height to accommodate a desired web thickness is routine skilled in the art. Therefore, it would have been obvious to one skilled in the art to manufacture gripping elements with a height about 0.015 inch since such practice is routine in the art.

#### *Response to Arguments*

7. Applicant's arguments, see the Remarks filed 06/06/2005, with respect to claims 20-27, 34 and 40 have been fully considered and are persuasive. The rejection of claims 20-27, 34 and 40 has been withdrawn.

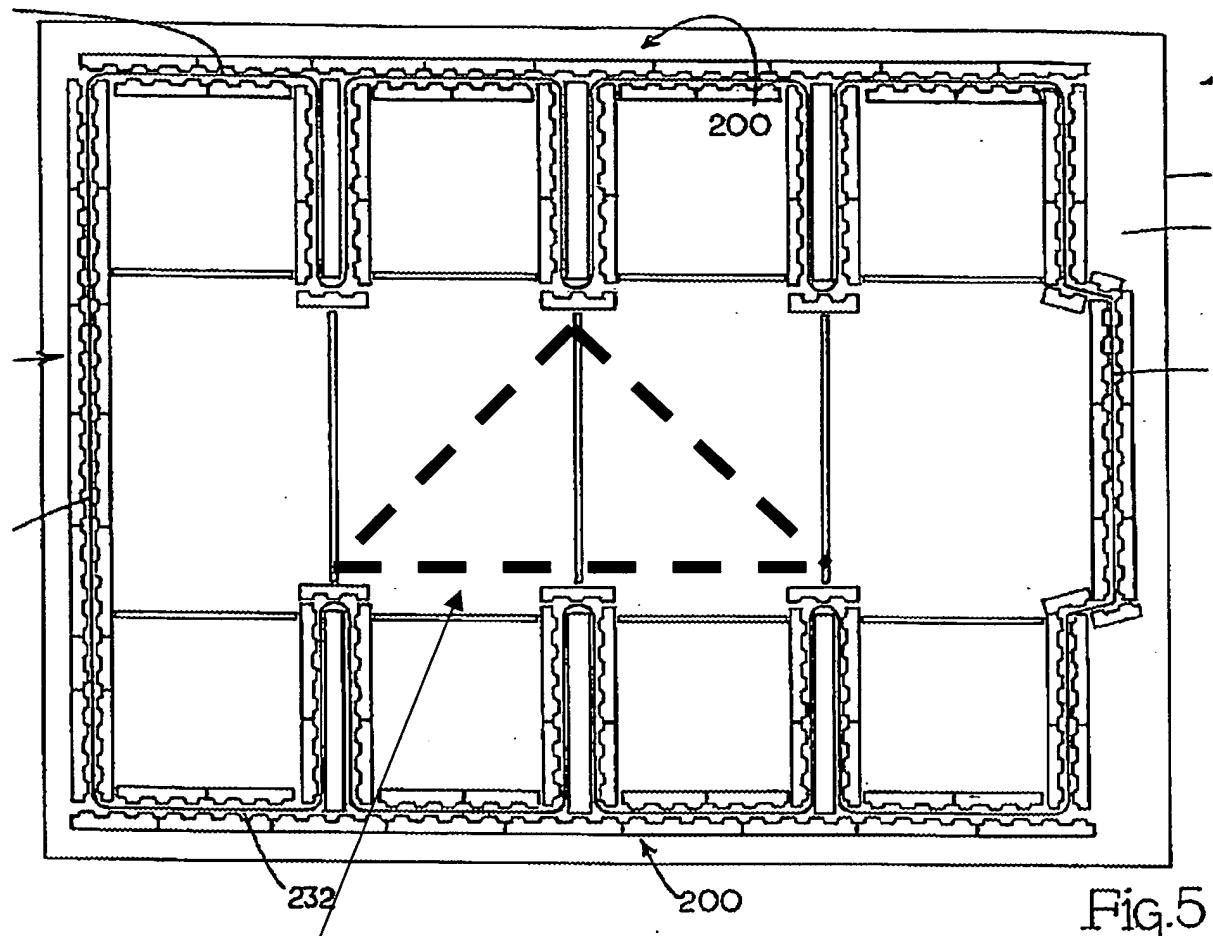
8.       Applicant's arguments with respect to claims 28-34 have been fully considered but they are not persuasive.

Regarding claim 28, Applicant asserts that the rubber ejectors of Smithwick cannot be the means for gripping scrap portion and the height of the gripping elements is shorter the height of the cutting blade. The Examiner respectfully disagrees. The rubber ejectors along with the lower roller 104 grip the scrap portions when the cutting rule interacts with the work piece and the lower roller 104. The height of the gripping members is shorter than the height of the cutting rule when the gripping member are compressed during the cutting process.

Regarding claims 31 and 32, Applicant asserts that Smithwick does not teach element 200 are at 3 points of an isosceles triangle. Applicant is directed to the attached Fig. 5 below.

Regarding Applicant's argument with respect to claims 33 and 39, since the Applicant does not explicitly teach the claimed apparatus operating ONLY at the specific size of the web and the gripping elements, the Examiner considers providing a specific size of a machine part (gripping elements) so that the machine can work on certain size of a work piece (thickness of the web) is routine skill in the art.

Regarding claim 35, Applicant asserts that Smithwick's gripping members are not integral with each other gripping member. Since the Applicant does not define what "integral" means, the Examiner interprets "integral" means being grouped closed together. It is to be noted that the Examiner's definition of "integral" is derived from Applicant's Fig. 7a.



Elements 200 are at 3 points of an isosceles triangle

Regarding Applicant's argument with respect to claims 30 and 37 that AAPA does not teach methods of manufacturing gripping elements, the Examiner respectfully disagrees. Applicant disclose the art of etching or masking is well known in the art; therefore, using the art of etching or masking to secure the gripping members to the rollers is within ordinary skilled in the art.

***Allowable Subject Matterss***

9. Claims 20-27, 35-40, 41 and 43 are allowed.
10. Claims 34 and 42 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phong H. Nguyen whose telephone number is 571-272-4510. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PN: *pn*

August 4, 2005

*as*  
Allan N. Shoap  
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